

BIOTECHNOLOGY INDUSTRY ORGANIZATION
1201 Maryland Avenue, SW
Suite 900
Washington, DC 20024
Phone (202) 962 9200
Fax: (202) 488-6301

June 23, 2008

Air and Radiation Docket,
Docket ID No. EPA-HQ-OAR-2008-0380
Environmental Protection Agency
6102T
1200 Pennsylvania Avenue
Washington, DC 20460

Dear Administrator Johnson,

Biotechnology Industry Organization (“BIO”) is the world’s largest biotechnology organization, providing advocacy, business development and communications services for more than 1,150 members worldwide. Our mission is to be the champion of biotechnology and the advocate for our member organizations—both large and small. BIO members are involved in the research and development of innovative healthcare, agricultural, industrial and environmental biotechnology technologies. Corporate members range from entrepreneurial companies developing a first product to Fortune 100 multinationals. We also represent state and regional biotech associations, service providers to the industry and academic centers.

BIO hereby submits comments in response to the May 23, 2008 Federal Register Notice of a request from Texas to you under section 211(o) of the Clean Air Act (“CAA”) for a waiver of 50 percent of the Renewable Fuel Standard (“RFS”) mandate for the production of ethanol from grain. As observed in the aforementioned Notice, you must determine *ab initio* if the statutory basis for such a waiver has been met. If it has been met, only then arises the extent to which you should exercise your nonmandatory discretion, in consultation with the Secretaries of Agriculture and Energy, with respect to such a waiver. BIO is strongly opposed to the waiver request.

BIO notes that, as mentioned in the Notice, under the CAA the waiver may be granted if you determine that implementation of the RFS would severely harm the economy or environment of a state, region, or the United States, or if there is an inadequate supply for such fuel. As set forth in the Notice, since the granting of a waiver is discretionary, information not only directly relevant to the petition was requested, but also on the effects of the grant of such a waiver on the areas of the country that may be beneficially affected by the RFS.

After BIO carefully examined the April 25, 2008 petition from Governor Rick Perry of Texas, it was quite clear that the bedrock argument for the waiver is bottomed on the fallacious logical technique known as *post hoc, ergo propter hoc* (after this, therefore because of this). The petition selectively cited with approbation an April 10, 2008 report from the Agriculture and Food Policy Center of Texas A&M University, entitled *The Efforts of Ethanol on Texas Food and Feed* (hereinafter “Tex. A&M Rpt.”). Yet, whereas the Tex. A&M Rpt. supports some of the petition’s observations about the net negative balance to Texas agriculture from high corn prices, the Executive Summary thereof (Tex. A&M Rpt., page 3) specifically states the following:

Relaxing the RFS does not result in significantly lower corn prices. This is due to the ethanol infrastructure already in place and the generally positive economics for the industry. The ethanol industry has grown in excess of the RFS, indicating that relaxing the standard would not cause a contraction in the industry.

The Tex. A&M Rpt., in short, after modeling for three different RFS scenarios, including a permanent reduction in the conventional biofuel RFS by one-half, directionally analogous to the temporary (but renewable) waiver sought by the petitioner, found that expected corn prices “are fairly steady near current levels under all scenarios” (Tex. A&M Rpt., p. 37). As pointed out in the summary, underlying all the complex changes in agriculture is the high price of energy, which drives up commodity prices, including that of corn. Though the study indeed did acknowledge the negative effect on Texas agriculture of higher corn prices, especially in the livestock industry, the summary of the analysis specifically reached the conclusion that research

suggests the hypothesis that corn prices have had little to do with rising food costs and, furthermore, relaxing the RFS would not result in significantly lower corn prices (Tex. A&M Rpt., p. 39).

On May 7, 2008, in a Hearing on Food Subsidiaries and Impact on Food Prices, held before the U.S. Senate Committee on Homeland Security and Government Affairs, Bruce A. Babcock of Iowa State University's Center for Agricultural and Rural Development addressed the issue of what happens if Federal biofuels policies were changed. His research center for the past three years had been studying the impact of expanded biofuels production in the United States and abroad. He focused on three scenarios, the one of which was most relevant to the petition of Governor Perry was the entire elimination of the RFS mandate in the Energy Independence and Security Act of 2007, but retention of the blenders' tax credit and import tariff. Babcock stated that "elimination of the mandate would reduce expected ethanol production by about 4%, the ethanol price would drop by less than 2%, imports would fall by 18% and the price of corn would fall by slightly more than 1% (testimony, p. 3). He reported two general findings, the first of which was "even if we were to eliminate all support for corn ethanol, the price of corn and crops that compete with corn for land will rise or fall directly with transportation fuel prices" and second, "in the long run, if high gasoline prices signal that we need alternative fuels, the corn ethanol industry will be there to contribute substantial amounts of transportation fuels even without government subsidies" (testimony, p. 4). Babcock recognized that "unless we have a return to \$40 or \$50 crude oil, we can expect the price of corn to be well above corn historical levels for the foreseeable future even if all support for corn ethanol were eliminated" (testimony, p. 5). Therefore, he concluded that the combination of ethanol plants running at full capacity to cover their operating costs and high gasoline prices means that there would be modest impacts on commodity prices from changes in Federal biofuels policy.

As noted in a May 6 letter to you for this docket from a number of U.S. Senators, including Charles Grassley and Tim Johnson, according to Ed Lazear, Chairman of the Council of Economic Advisors, the evidence is that ethanol accounts for less than 3 percent of the increase in global food prices. Furthermore, the letter cited the estimation of a Merrill Lynch

analyst that U.S. oil and gas prices would be 15 percent higher without biofuels in our fuel supply.

Lastly, during the first week in June of this year a food summit was held in Rome, Italy at the United Nations Food and Agriculture Organization. The declaration at the end of the summit called for more studies on the effects of biofuels on food security. Significantly, given his consultative role in consideration of the waiver petition, U.S. Agriculture Secretary Ed Schafer claimed that ethanol accounts for no more than 3% of the recent increase in food prices. In summary, not only has the burden of proof not been met for granting the waiver request, but the objective data is strongly indicative of the fact that the waiver would not accomplish the relief sought if granted.

Respectfully submitted,

Brent Erickson,
Executive Vice President
Industrial and Environmental Section
Biotechnology Industry Organization